

FILED

JAN 24 2020

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 DAVID L. ANDERSON (CABN 149604)  
United States Attorney  
2  
3 HALLIE HOFFMAN (CABN 210020)  
Chief, Criminal Division  
4 MICHELLE J. KANE (CABN 210579)  
KATHERINE L. WAWRZYNIAK (CABN 252751)  
5 Assistant United States Attorneys

6 1301 Clay Street, Suite 340S  
7 Oakland, California 94612  
Telephone: (510) 637-3680  
8 FAX: (510) 637-3724  
9 michelle.kane3@usdoj.gov  
Katherine.Wawrzyniak@usdoj.gov

10 Attorneys for United States of America

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 YEVGENIY ALEXANDROVICH NIKULIN,

18 Defendant.

) No. CR 16-00440 WHA  
) **UNITED STATES' MOTION IN LIMINE NO.**  
) **ONE TO ADMIT CO-CONSPIRATOR**  
) **STATEMENTS UNDER FED. R. EVID.**  
) **801(D)(2)(E).**  
) **UNDER SEAL**  
) Trial: March 9, 2020  
) Pretrial Conference: February 19, 2020  
) Time: 1:30 p.m.  
) Courtroom No. 12

22  
23  
24  
25  
26  
27  
28  
U.S. MTN. IN LIMINE RE CO-CONSPIRATOR STMTS.  
CR 16-00440 WHA

141-804

## I. INTRODUCTION

2 Defendant Yevgeniy Nikulin is charged in an Indictment with three counts of computer  
3 intrusion, in violation of 18 U.S.C. § 1030(a)(2)(C); two counts of intentional transmission of  
4 information, code, or command causing damage to a protected computer, in violation of 18 U.S.C. §  
5 1030(a)(5)(A); two counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1); one  
6 count of trafficking in unauthorized access devices, in violation of 18 U.S.C. § 1029(a)(2); and one  
7 count of conspiracy, in violation of 18 U.S.C. § 371. In connection with the conspiracy, trafficking,  
8 computer intrusion counts, and aggravated identity theft counts involving Formspring (Counts Five  
9 through Nine) the United States intends to introduce evidence of statements by defendant's co-  
10 conspirators contained in email correspondence. The United States hereby respectfully requests that the  
11 Court find the statements admissible when offered by the government pursuant to Federal Rule of  
12 Evidence 801 (d)(2)(E).

## II. BACKGROUND AND SUMMARY OF STATEMENTS BY CO-CONSPIRATORS

14 The United States hereby gives notice that it may offer co-conspirator statements through the  
15 testimony of other witnesses and through documents. A statement by a co-conspirator during the course  
16 and in furtherance of the conspiracy is not hearsay and is admissible against other members of the  
17 conspiracy. Fed. R. Evid. 801(d)(2)(E). Here, the United States intends to introduce statements  
18 contained in self-authenticating email correspondence between the co-conspirators in which they discuss  
19 the decryption and trafficking of stolen credentials.

20 As charged in the Indictment in this case, defendant Nikulin gained unauthorized access to the  
21 computers belonging to a San Francisco company named Formspring in June 2012. At the time,  
22 Formspring's business was running a social question and answer website. Testimony and documents  
23 will show that Nikulin exfiltrated Formspring's user database. Between June 13, 2012, and June 29,  
24 2012, Nikulin stole approximately 30 million Formspring user credentials after compromising the  
25 account of a Formspring employee, John Sanders (identified in the Indictment as J.S.). Nikulin then  
26 conspired with several individuals to sell the stolen Formspring credentials.

27 On April 25, 2013, the United States obtained a search warrant for the contents of a Google e-

1 mail account, moy.yawik@gmail.com, used by an individual named Alexey Belan.<sup>1</sup> The FBI identified  
2 Belan as moy.yawik@gmail.com in part through the content of the e-mail account. Among other things,  
3 the account contained a scanned copy of Belan's Russian domestic passport, including Belan's  
4 photograph. The passport was attached to outgoing email correspondence and was presented to confirm  
5 Belan's identity in the context of credit/banking transactions. The account also contained several  
6 messages addressed to Belan, using his real name.

7 The results of that search warrant contained an e-mail thread (translated from Russian to English)  
8 between Belan (moy.yawik@gmail.com) and an individual named Nikita Kislitsin  
9 (fyofyofyo@hotmail.com). The FBI identified Kislitsin as the user of the account in part because he  
10 confirmed that in correspondence with Belan.

11 The conversation between Belan and Kislitsin began on June 25, 2012, during the Formspring  
12 intrusion period, which ran from June 13 to 29, 2012. The following is the complete e-mail conversation  
13 chain (YN000202):

14 From: NoName <moy.yawik@gmail.com>  
15 Date: June 25, 2012  
16 To: Dor Fyo <fyofyofyo@hotmail.com>  
17 Subject: Re: akbon  
18 *Hi, are you going to contact my guy and his partner?)*

19 July 2, 2012, Dor Fyo <fyofyofyo@hotmail.com> wrote:  
20 *Mag [a known alias of Belan], for some reason I can't reach him, he's not online :/. How often  
21 does he usually go online?*

22 July 2, 2012, 19:14 user Dor Fyo <fyofyofyo@hotmail.com> wrote:  
23 *It's done, I got in touch with him :)*

24 July 3, 2012, NoName <moy.yawik@gmail.com> wrote:  
25 *Good just in case, he's online on weekdays*

26 July 7, 2012, Dor Fyo <fyofyofyo@hotmail.com> wrote:  
27 *Mag, have you worked with him much? I've got a big negative feeling from working with him.  
28 He burned the whole dump, having posted a portion of the hashes into the public domain, which  
surfaced. Plus the conversion turned out to be low, and the main thing – the number in the admin  
is changing. I just saw one number, then bam, I refresh the page, and the number has changed.  
The conversion is very low, somewhere around 10 times less than what you had. I'm concerned  
that this guy is trying to screw me over.*

29 July 13, 2012, NoName <moy.yawik@gmail.com> wrote  
30 *Hi, you're writing me with some improbable stuff. o.O [sic] I can completely vouch for him. I'll  
31 ask about the portion of the hashes in the public.*

32 <sup>1</sup> The contents will be authenticated by a certification under Fed. R. Evid. 902(11) and/or (13).

*On the changing numbers – that's normal, it's the refunds.  
On the conversion – what is the database, if it's not a secret?*

July 13, 2012, Dor Fyo <fyofyofyo@hotmail.com> wrote:  
*Formspring*

July 13, 2012, NoName <moy.yawik@gmail.com> wrote:  
*Okay, I'll wait for him so we can have a talk.*

*On the leak – did you break it yourself or did you buy it from someone? Maybe you should check out that angle?*

July 13, 2012, Dor Fyo <fyofyofyo@hotmail.com>

*No, it was his bruter [login brute-forcer] that posted it:*

[https://webcache.googleusercontent.com/search?q=cache%3Ahttp%3A%2F%2Fforum.insidepro.com%2Fviewtopic.php%3Ft%3D15467&fq=cache%3Ahttp%3A%2F%2Fforum.insidepro.com%2Fviewtopic.php%3Ft%3D15467&gs\\_l=hp..0l4.2407.5448.0.5858.7.7.0.0.0.102.396.4j1.5.0...0.2.NCJ9w-xdBSs&pbx=1](https://webcache.googleusercontent.com/search?q=cache%3Ahttp%3A%2F%2Fforum.insidepro.com%2Fviewtopic.php%3Ft%3D15467&fq=cache%3Ahttp%3A%2F%2Fforum.insidepro.com%2Fviewtopic.php%3Ft%3D15467&gs_l=hp..0l4.2407.5448.0.5858.7.7.0.0.0.102.396.4j1.5.0...0.2.NCJ9w-xdBSs&pbx=1)

10 The e-mail thread is discussing the Formspring data, and how someone working with Nikulin – his  
11 “brute-force” decrypter – posted a set of the encrypted passwords on the Internet to seek help with  
12 decrypting them. In the discussion, Kislitsin is describing his discussions with Nikulin and asking Belan  
13 whether he is trustworthy. The link in the e-mail thread leads to a cached version of a posting on  
14 Insidepro, which Formspring has confirmed contained its encrypted user data. Ade Alonoh of  
15 Formspring will testify as such at trial.

16 The e-mail thread confirms that Belan was connecting Kislitsin with Nikulin, the person who  
17 stole the Formspring data. It also confirms that Kislitsin was considering the transaction and  
18 investigating the quality of the data.

19 On July 16, 2012, three days after he discussed the Formspring data with Belan, Kislitsin began  
20 an e-mail conversation with another individual, Mehmet Sozen, in which he offered the Formspring data  
21 for sale.<sup>2</sup> In that conversation, Sozen used the e-mail address [ibob749@gmail.com](mailto:ibob749@gmail.com). Sozen used his real  
22 name in correspondence in the [ibob749@gmail.com](mailto:ibob749@gmail.com) account. For example, when sending the  
23 confirmation that he paid Kislitsin, he included a Western Union transaction number and his name as the  
24 sender. FBI was also able to connect the [ibob749@gmail.com](mailto:ibob749@gmail.com) account to another of Sozen's accounts,  
25 [mehmetsozen10@gmail.com](mailto:mehmetsozen10@gmail.com). Kislitsin used [fyofyofyo@hotmail.com](mailto:fyofyofyo@hotmail.com), the same account described  
26 above. The correspondence, as translated, follows (YN004787):

From: Dor Fyo <fyofyofyo@hotmail.com>

<sup>2</sup> The contents will be authenticated by a certification under Fed. R. Evid. 902(11) and/or (13).

1 To: ibo ibo <ibob749@gmail.com>  
2 Sent: Monday, July 16, 2012 6:32 PM  
3 Subject: Re: hi  
4 *Rais, I've got a good web-site Formspring.com. It's a very popular and big web-site, it has 30  
Million users.  
Let me know if you are interested in it*

5 Sozen responded, asking about the price and the type of data:

6 From: ibo ibo <ibob749@gmail.com>  
7 To: Dor Fyo <fyofyofyo@hotmail.com>  
8 Sent: Tuesday, July 17, 2012 4:16 AM  
9 Subject: Re: hi  
10 *What price please?*

11 *[And] I want email lastname firstname etc is it possible?*

12 Kislitsin responded:

13 From: Dor Fyo <fyofyofyo@hotmail.com>  
14 To: ibo ibo <ibob749@gmail.com>  
15 Sent: Tuesday, July 17, 2012 9:14 AM  
16 Subject: Re: hi  
17 *Best price in 10.000E, there are 30M users with email, usernames, messages and so on.*

18 Sozen then asked further about the quality of the data:

19 From: ibo ibo <ibob749@gmail.com>  
20 To: Dor Fyo <fyofyofyo@hotmail.com>  
21 Sent: Tuesday, July 17, 2012 10:18 AM  
22 Subject: Re: hi  
23 *Thanks for your offer But how many [times have these databases been] sold? Because for the  
other[s] I already bought my customers aren't happy they [say] that the [e-mails] are [used] too  
much and that the people aren't [responding] you're [telling me] that you aren't [selling] them  
:-)*

24 Kislitsin reassured him that the data was still good:

25 From: Dor Fyo <fyofyofyo@hotmail.com>  
26 To: ibo ibo <ibob749@gmail.com>  
27 Sent: Tuesday, July 17, 2012 11:00 PM  
28 Subject: Re: hi  
29 *It's fresh database, it wasn't sold to anybody yet. Also I sell db only in one hands.*

30 *Statistics by countries:*

31 *USA - 7 Million*

32 *United Kingdom - 3 Million*

33 *Europe (France Germany Spain etc) - 7 Million*

34 *Brasil - 5 Million*

35 *Others - 8 Million*

36 At Sozen's request, Kislitsin sent a sample of the data from his fyofyofyo@hotmail.com account

37 to Sozen on July 31, 2012. The data contained 1,000 records. Matt Cudworth, who worked for the

1 successor company to Formspring, will testify for the United States at trial, has confirmed that the data  
2 that Kislitsin sent to Sozen came from the Formspring database and belonged to Formspring customers.

3 After some continued email negotiations on price, Kislitsin and Sozen agreed on €5,500  
4 (approximately \$7,500 U.S. at the time) for the stolen Formspring data. Sozen represented that all of his  
5 customers were on vacation, so he only had one offer, establishing that he was making the purchase for  
6 someone else. Sozen delayed paying several times, until on September 12, 2012, he wrote to Kislitsin,  
7 asking whether it was okay to send the money the next day and which name he should use. Kislitsin told  
8 Sozen to send the money to "Oleg Tolstikh." Sozen reported on September 14, 2012, that, using his own  
9 name, he had sent €4,820, because that is the maximum he could send at one time. He gave the  
10 transaction number 4153808137. He promised to send the €700 balance on "Monday," which would  
11 have been September 17, 2012. Records obtained by subpoena from Western Union match the  
12 conversation (YN005009). On September 13, 2012, Mehmet Sozen sent "Oleg Tolstikh" €4,820 with  
13 transaction number 4153808137 and on September 19, 2012, he sent the balance, €700, to the same  
14 name.

15 A video obtained via a Mutual Legal Assistance Treaty ("MLAT") request to Ukraine shows  
16 defendant Nikulin, Kislitsin, and Tolstikh together at a meeting of approximately ten individuals at a  
17 hotel in Moscow (YN014097, 015055). The video was obtained in November 2012 from the computer  
18 of another individual present at the meeting. It was contained in a folder labeled "Moscow 2012" and  
19 had a "last modified" date of March 18, 2012, indicating it was likely taken during the same 2012 period  
20 when Nikulin, Kislitsin, and Tolstikh were participating in the theft and trafficking of the Formspring  
21 credentials. The video contains a discussion between the attendees of a potential internet café business.  
22 The contents of the computer are authenticated as part of the MLAT response from Ukraine. FBI Special  
23 Agents Jeffrey Miller and Emily Odom will testify regarding the identification of the participants at the  
24 meeting.

25 In 2014, FBI special agents interviewed Kislitsin at the U.S. Embassy in Moscow (YN013922).  
26 In that interview, he told the FBI about how he knew Belan and explained that Belan obtained e-  
27 commerce databases with a goal to sell them for financial gain or to use them for "spamming." Belan  
28 targeted U.S. citizens through spam messages offering weight loss products, etc. Kislitsin said that Belan

1 made approximately \$200,000 using the stolen Zappos database (see below) as part of a spamming  
2 campaign. Kislitsin had tried to sell the Zappos database to Sozen on Belan's behalf, but they could not  
3 agree on a price. After the Zappos hack, Kislitsin wanted to try selling more databases. He acquired the  
4 Formspring database from "Yevgeniy" and provided it to Sozen for spamming purposes. Kislitsin said  
5 that he did not make as much money as he had promised Yevgeniy by selling the database, and  
6 Yevgeniy had been unhappy with Kislitsin after the transaction. Kislitsin said that Oleg Tolstikh, the  
7 name on the money transfer for Yevgeniy, was a real person and a common acquaintance of Kislitsin  
8 and Yevgeniy. Kislitsin said he had met Yevgeniy in person on one occasion through Oleg Tolstikh.

9 Kislitsin has been charged in an indictment that remains under seal with the same counts of  
10 conspiracy and trafficking in unauthorized access devices as defendant Nikulin in connection with the  
11 sale of the Formspring data. Case No. CR 14-00126 EXE (N.D. Cal). Kislitsin is identified as "Co-  
12 conspirator 1" in the present Indictment. Sozen is identified as "Co-conspirator 3" in the present  
13 Indictment. In 2013, Belan was charged in this District with computer intrusions against two companies,  
14 Evernote and Scribd, and related identity thefts. Case No. CR 13-00359 EXE (N.D. Cal). That  
15 indictment was unsealed along with a 2012 indictment charging him with similar crimes against Zappos.  
16 Case No. 12-cr-331-APG-GWF (D. Nev.). In 2017, Belan was charged in this District with additional  
17 offenses, along with several co-conspirators. That Indictment alleges among other things, that, in  
18 November and December 2014, Belan stole a copy of at least a portion of Yahoo's user database and  
19 conspired with Russian FSB officers to gain access to Yahoo accounts without authorization. Case No.  
20 CR 17-00103 VC (N.D. Cal.). Belan is identified as "Co-conspirator 2" in the present Indictment.

21 **III. ARGUMENT**

22 **A. The Government Should Be Permitted to Offer Co-Conspirator Statements But the  
23 Defense Should Be Precluded from Doing So.**

24 A statement by a co-conspirator during the course and in furtherance of the conspiracy is not  
25 hearsay and is admissible against other members of the conspiracy. Fed. R. Evid. 801 (d)(2)(E).  
26 *Bourjaily v. United States*, 483 U.S. 171, 175 (1987); *United States v. Crespo de Llano*, 838 F.2d 1006,  
27 1017 (9th Cir. 1987). For the reasons set forth below, the United States respectfully requests that this

1 Court conditionally admit the co-conspirator statements contained in email correspondence between  
2 Kislitsin, Belan, and Sozen described above.

3 However, just as the defendant is not permitted to offer his own statements, he is not permitted to  
4 offer statements of his co-conspirators. By its terms, Fed. R. Evid. 801(d)(2)(E) requires that co-  
5 conspirator statements be offered against a party who was a member of the conspiracy. Insofar as the  
6 United States was not a member the conspiracy, these statements and any others by the co-conspirators  
7 may not be offered against the United States. *See United States v. Maliszewski*, 161 F.3d 992, 1011 (6th  
8 Cir. 1998) (holding that co-conspirator statement could not be offered against government, which was  
9 not member of conspiracy); *United States v. Abbas*, 74 F.3d 506, 511 (4th Cir. 1996) (same).

10 **A. The Court Should Conditionally Admit the Co-Conspirator Statements Without a Pretrial  
Hearing.**

12 Recognizing that the trial court has the discretion to determine the order of proof, the Ninth  
13 Circuit has approved the admission of co-conspirator statements subject to a motion to strike or mistrial  
14 if the United States later fails to lay a proper foundation. *United States v. Perez*, 658 F.2d 654, 658 and  
15 n. 2 (9th Cir. 1981) (noting that unlike other Circuits, the Court has declined to express a preference for  
16 pretrial determinations of admissibility); *United States v. Zemek*, 634 F.2d 1159, 1169-70 (9th Cir.  
17 1980) (holding that "this court has held repeatedly that the order of proof is within the sound discretion  
18 of the trial court. The procedure of conditionally admitting co-conspirator's statements subject to later  
19 motions to strike is well within the court's discretion.") (citations omitted). Given the United States  
20 showing below regarding the admissibility of co-conspirator statements here, the Court should  
21 conditionally admit the statements contained in the email correspondence described above at the pretrial  
22 conference.

23 **B. The Proffered Evidence Makes a Sufficient Threshold Showing to Conditionally Admit the  
Co-Conspirator Statements.**

25 To introduce a statement of a co-conspirator into evidence against a defendant, the government  
26 need only establish – by a preponderance of the evidence – the existence of the conspiracy; the  
27 defendant's connection to it; and that the statement was made during and in furtherance of the  
28 conspiracy. *Bourjaily*, 483 U.S. at 175-76, 181-82; *United States v. Bridgeforth*, 441 F.3d 864, 869 (9th

1 Cir. 2006); *Crespo de Llano*, 838 F.2d at 1017. In determining whether the requirements of the co-  
2 conspirator rule have been met, the Court can rely on any relevant evidence, whether admissible or not,  
3 including the co-conspirator statements themselves. *Bourjaily*, 483 U.S. at 175, 178-79. The hearsay  
4 statements may be considered in making this determination. *United States v. Gordon*, 844 F.2d 1397,  
5 1402 (9th Cir. 1988) (citing *Bourjaily*). The statements at issue here clearly meet and exceed the  
6 preponderance standard and the Court can therefore conditionally admit them.

7 **1. Showing the Existence of a Conspiracy.**

8 The existence of the conspiracy to traffic unauthorized access devices in the form of stolen  
9 Formspring credentials is demonstrated by the email communications between Belan, Kislitsin, and  
10 Sozen detailed above. The United States will offer the correspondence between the co-conspirators as  
11 evidence of the conspiracy. Defendant Nikulin's role in the conspiracy was to steal the Formspring  
12 database and provide it to Kislitsin, as Kislitsin told the FBI. Belan initiated the connection between  
13 Kislitsin and Nikulin. Kislitsin offered the stolen Formspring data to Sozen. Sozen bought the stolen  
14 data and paid Oleg Tolstikh via Western Union as Kislitsin directed. The evidence shows that the co-  
15 conspirators, understood the nature of the stolen credentials and were seeking to earn money from them,  
16 for example, Kislitsin's description to Sozen that "there are 30M users with email, usernames, messages  
17 and so on" or the discussion of Nikulin's "bruter," which is slang for someone who uses a brute-force  
18 technique to crack encrypted passwords. Defendant himself understood the nature of the stolen  
19 credentials, having stolen them himself. This evidence is more than sufficient to establish the existence  
20 of a conspiracy.

21 **2. Showing the Defendant's Connection to the Conspiracy.**

22 Once a conspiracy is shown, the prosecution need only present slight evidence connecting the  
23 defendant to the conspiracy. *United States v. Mason*, 658 F.2d 1263, 1269 (9th Cir. 1981). Recognizing  
24 that conspiracies are generally clandestine agreements not capable of direct proof, the Ninth Circuit has  
25 held that proof of the slight connection "may be inferred by circumstantial evidence." *United States v.*  
26 *Reed*, 575 F.3d 900, 923-924 (9th Cir. 2009). The court has further explained that the term "slight  
27 connection" means that the defendant need not have known all the conspirators, participated in the  
28 conspiracy from its beginning, participated in all its enterprises, or known all its details. *Id.* at 17.

1 Defendant's connections to the conspiracy here are established through his participation in the initial  
2 theft of the Formspring credentials, his providing the credentials to Kislitsin, and his demonstrated  
3 association with both Kislitsin and Tolstikh, the person who handled the money through Western Union.  
4 Moreover, Kislitsin admitted that he received the stolen Formspring credentials from Nikulin for the  
5 purpose of selling them. The Court may consider Kislitsin's admissions in making its determination on  
6 the admissibility of the co-conspirator statements contained in the email correspondence, without regard  
7 to whether Kislitsin's admissions will be admitted at trial. *See Bourjaily*, 483 U.S. at 175, 178-79  
8 (confirming that Fed. R. Evid. 104 allows the Court to consider any evidence, including hearsay, in  
9 making preliminary determinations regarding admissibility).

10 **3. Showing that the Statements Were Made During and In Furtherance of the  
11 Conspiracy.**

12 To be "in furtherance" of a conspiracy, the statements must further the common objectives of the  
13 conspiracy or set in motion transactions that are an integral part of the conspiracy. *United States v.*  
14 *Yarbrough*, 852 F.2d 1522, 1535-1536 (9th Cir. 1988) (citations omitted). Statements made to enlist or  
15 further participation in the group's activities; statements intended to prompt action by co-conspirators;  
16 and statements made to advise co-conspirators of the group's activities are all recognized to be "in  
17 furtherance of" a conspiracy. *Id.* at 1535-36; *see also United States v. Nazemian*, 948 F.2d 522, 529 (9th  
18 Cir. 1991). To determine if a statement was made "in furtherance," the court should look to the  
19 declarant's intent in making the statement, not the actual effect in advancing the goals of the conspiracy.  
20 *United States v. Zavala-Serra*, 853 F.2d 1512, 1516 (9th Cir. 1988).

21 Here, the co-conspirator statements were plainly in furtherance of the conspiracy and are part of  
22 the record of the charged trafficking transaction. They show Belan encouraging Kislitsin to do business  
23 with Nikulin, Kislitsin offering the credentials he received from Nikulin to Sozen for sale, and Sozen  
24 and Kislitsin negotiating the sale price. Moreover, the negotiations between Sozen and Kislitsin  
25 establish the value of the stolen Formspring credentials as (1) more than \$1,000, which is an element of  
26 the 18 U.S.C. § 1029(a)(2) charge in Count Six of the Indictment, and (2) as over \$5,000, which is one  
27 of the aggravating factors charged in Count Seven of the Indictment.

1 For the reasons set forth above, the United States respectfully submits that it has made the  
2 necessary preliminary showing under *Bourjaily* for this Court to admit the co-conspirator statements  
3 contained in email correspondence between Kislitsin, Belan, and Sozen.

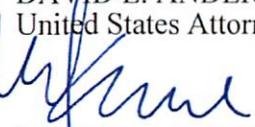
4 **IV. CONCLUSION**

5 The United States therefore moves *in limine* for a preliminary ruling that the proffered co-  
6 conspirator statements are admissible pursuant to 801(d)(2)(E) when offered by the United States.

7 DATED: January 22, 2020

Respectfully submitted,

8 DAVID L. ANDERSON  
United States Attorney

9   
10 MICHELLE J. KANE  
11 KATHERINE L. WAWRZYNIAK  
12 Assistant United States Attorneys